

**L.N. 93 of 2009****FOOD BUSINESS (AMENDMENT) REGULATION 2009**

(Made by the Director of Food and Environmental Hygiene under section 56 of the Public Health and Municipal Services Ordinance (Cap. 132))

**1. Commencement**

This Regulation comes into operation on 1 August 2009.

**2. Section added**

The Food Business Regulation (Cap. 132 sub. leg. X) is amended by adding—

**“10AB. Seawater extracted from prohibited areas**

(1) In this section—  
“food business” (食物業) has the same meaning as in section 10A(3);  
“prohibited area” (禁區) means an area specified in Schedule 1A.

(2) A person shall not extract seawater from a prohibited area for the purpose of keeping by that person, in the course of any food business, any live fish or shell fish that is intended for human consumption.

(3) A person shall not use for the purpose of keeping, in the course of any food business, any live fish or shell fish that is intended for human consumption seawater knowing or having reason to believe that it is extracted from a prohibited area.

(4) A person shall not extract seawater from a prohibited area knowing or having reason to believe that it is to be used by another person for the purpose of keeping, in the course of any food business, any live fish or shell fish that is intended for human consumption.

(5) A person shall not supply, deliver or cause to be delivered, to another person seawater knowing or having reason to believe that—

(a) it is extracted from a prohibited area; and

(b) it is to be used for the purpose of keeping, in the course of any food business, any live fish or shell fish that is intended for human consumption.”.

### 3. Offences and penalties

Section 35(1)(a) is amended by adding “10AB(2), (3), (4) or (5),” after “10A(1),”.

### 4. Schedule 1A added

The following is added—

#### “SCHEDULE 1A

[s. 10AB]

##### PROHIBITED AREAS FOR EXTRACTION OF SEAWATER FOR PURPOSE OF KEEPING LIVE FISH OR SHELL FISH INTENDED FOR HUMAN CONSUMPTION

1. Any area within the typhoon shelters specified in column 2 of the Schedule to the Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E).
2. Any area within the following boundaries—
  - (a) on the north—the shoreline of Kowloon and the New Territories;
  - (b) on the east—a straight line drawn from the northern shore of A Kung Ngam at position 22°17.058' north 114°14.027' east to the southern shore of Lei Yue Mun at position 22°17.273' north 114°14.192' east;
  - (c) on the south—the shoreline of Hong Kong Island; and
  - (d) on the west—a straight line drawn from the westernmost point of Hong Kong Island to the westernmost point of Green Island, from there a straight line drawn from the westernmost point of Green Island to the southern shore of Tsing Yi at position 22°19.623' north 114°06.400' east, from there along the southern, eastern and northern shorelines of Tsing Yi to the westernmost extremity of Tsing Yi and from there a straight line drawn true north therefrom to the mainland.
3. Any area—
  - (a) between the high water level and low water level of the shoreline along Hong Kong Island; and
  - (b) within 50 m seaward from the low water level of the shoreline along Hong Kong Island.

4. Any area—
  - (a) between the high water level and low water level of the shoreline along Ap Lei Chau; and
  - (b) within 50 m seaward from the low water level of the shoreline along Ap Lei Chau.
5. Any area—
  - (a) between the high water level and low water level of the shoreline along the New Territories from the western mouth of the Shenzhen River at Deep Bay (Shenzhen Bay) southerly to Ting Kau at position 22°22.031' north 114°04.739' east; and
  - (b) within 50 m seaward from the low water level of the shoreline along the New Territories from the western mouth of the Shenzhen River at Deep Bay (Shenzhen Bay) southerly to Ting Kau at position 22°22.031' north 114°04.739' east.
6. Any area—
  - (a) between the high water level and low water level of the shoreline along Tsing Yi; and
  - (b) within 50 m seaward from the low water level of the shoreline along Tsing Yi.”.

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### Explanatory Note

The purpose of this Regulation is to amend the Food Business Regulation (Cap. 132 sub. leg. X) (“principal Regulation”) to better control the source of seawater used for keeping, in the course of any food business, live fish or shell fish that is intended for human consumption.

2. Section 2 adds a new section 10AB to the principal Regulation for the above purpose. New section 10AB (read with section 35 of the principal Regulation) creates offences with reference to seawater extracted from a “prohibited area”. New section 10AB(1) defines “prohibited area” to be an area specified in new Schedule 1A to the principal Regulation. The offences are—

- (a) extracting seawater from a prohibited area to keep, in the course of any food business, any live fish or shell fish that is intended for human consumption;
- (b) using for the purpose of keeping, in the course of any food business, such live fish or shell fish seawater knowing or having reason to believe that it is extracted from a prohibited area;
- (c) extracting seawater from a prohibited area knowing or having reason to believe that it is to be used by another person for the purpose of keeping, in the course of any food business, such live fish or shell fish; and
- (d) supplying, delivering or causing to be delivered, to another person seawater knowing or having reason to believe that it is extracted from a prohibited area and it is to be used for the purpose of keeping, in the course of any food business, such live fish or shell fish.